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In re Application of
LAWLER *et al*
U.S. Application No.: 10/574,385
PCT No.: PCT/US2004/032609
Int. Filing Date: 01 October 2004
Priority Date: 03 October 2003
Attorney Docket No.: 074408-9005-00
For: MEASURING DEVICE, SUCH AS A
SCALE OR MEDICAL SCALE

DECISION

This decision is in response to applicants' "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" filed 30 November 2007.

BACKGROUND

On 04 October 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 30 November 2007, applicants filed a request for reconsideration which was accompanied by, *inter alia*, a declaration of Edward Lawson, a second declaration of Sharon A. Johnson and copies of other documentary evidence previously submitted.

DISCUSSION

As previously stated, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor. Items (1), (3) and (4) of 37 CFR 1.47(a) were completed in the original petition.

The 37 CFR 1.47(a) applicants failed to show that a diligent effort was made to locate the nonsigning inventor in the initial petition. Specifically, the evidence submitted did not demonstrate that the 37 CFR 1.47(a) applicant made any attempt to locate Mr. Theron Kotze using the internet and telephone directory. Moreover, there was no indication that the 37 CFR 1.47(a) applicants contacted his former employer and former co-workers to determine if they have any information on the whereabouts of the nonsigning inventor.

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In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration by Edward Lawson who states that he received an e-mail from the former employer of Mr. Kotze containing contact information in the form of an e-mail address. Petitioners attempted to contact Mr. Kotze at this e-mail address to no avail. Moreover, Ms. Johnson indicated in her second declaration that internet searches were conducted, but that no additional contact information was found. This additional evidence in conjunction with the evidence previously submitted is sufficient to conclude that a the 37 CFR 1.47(a) applicants have made a diligent effort was made to locate the nonsigning joint inventor. As such, item (2) of 37 CFR 1.47(a) is satisfied.

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 01 October 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 24 July 2007.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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